

REMARKS

In the Final Office Action¹, the Examiner objected to claims 17 and 20 for informalities; rejected claims 5, 15, and 22 under 35 U.S.C. § 102(b) as being anticipated by *Hagiwara* (JP 2001-274367); and allowed claims 4, 7-11, 14, 16, 18, 19, and 21.

Applicant amends claims 5, 15, and 17. Claims 1-3, 6, 12, and 13 were previously cancelled. Thus, claims 4, 5, 7-11, and 14-22 remain pending and under current examination.

Applicant respectfully traverses the objection to claims 17 and 20. Nevertheless, in order to advance prosecution, Applicant amends claim 17 for further clarity. Claim 17 now recites, in part, "making a side wall spacer on a surface of each of said isolating fillers on a side wall of said floating gate electrodes," (emphasis added). Accordingly, claim 17 is fully consistent with the specification and Applicant respectfully requests the withdrawal of the objection to claims 17 and 20.

Applicant respectfully traverses the rejection of claims 5, 15, and 22 under 35 U.S.C. § 102(b) as being anticipated by *Hagiwara*. In order to properly establish that *Hagiwara* anticipates Applicant's claimed invention under 35 U.S.C. § 102, each and every element of each of the claims in issue must be found, either expressly described or under principles of inherency, in that single reference. Furthermore, "[t]he identical invention must be shown in as complete detail as is contained in the ... claim." See

¹ The Final Office Action may contain statements characterizing the related art, case law, and claims. Regardless of whether any such statements are specifically identified herein, Applicant declines to automatically subscribe to any statements in the Final Office Action.

M.P.E.P. § 2131, quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1126, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

Hagiwara does not disclose each and every element of Applicant's claimed invention. For example, *Hagiwara* does not disclose, at least, "second trenches being in the shape of a U, wherein a width of the second trenches at a first point above a second point is always at least equal to a width of the second trenches at the second point," (emphasis added), as recited in claim 5, and similarly recited in claim 15. Instead, *Hagiwara* discloses trenches (Fig. 29) in the shape of a flask, wherein a width of the trenches at a first point above a second point is not always at least equal to a width of the trenches at the second point. Therefore, *Hagiwara* does not disclose, at least, "second trenches being in the shape of a U, wherein a width of the second trenches at a first point above a second point is always at least equal to a width of the second trenches at the second point," (emphasis added), as recited in claim 5, and similarly recited in claim 15.

For at least the above reason, *Hagiwara* does not anticipate independent claims 5 and 15. Independent claims 5 and 15 are therefore allowable, and dependent claim 22 is also allowable at least by virtue of its dependence from independent claim 5. Therefore, Applicant respectfully requests the withdrawal of the rejection of claims 5, 15, and 22 under 35 U.S.C. § 102.

Applicant further notes that using flask-shaped trenches, as taught by *Hagiwara*, increases the possibility that electric short-circuiting will occur between the word line and the well region. On the other hand, using U-shaped trenches, as recited in claims 5

and 15, may decrease the possibility of such electric short-circuiting (specification, pp. 3, 10, 18).

In view of the foregoing, Applicant respectfully requests reconsideration and reexamination of claims 5, 15, 17, 19, and 22, and the timely allowance of the claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account 06-0916.

Respectfully submitted,

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